

# **EXHIBIT 1**

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**UNITED STATES DISTRICT COURT**

**DISTRICT OF ARIZONA**

TOWN OF COLORADO CITY, an Arizona  
municipality,

Plaintiff,

v.

THE UNITED EFFORT PLAN TRUST,  
(Dated November 9, 1942, Amended April 10,  
1946, and Amended and Restated on  
November 3, 1998); and BRUCE WISAN,  
Special Fiduciary; RONALD COOKE and  
JINJER COOKE, husband and wife; ROBERT  
BLACK and JANE DOE BLACK, husband  
and wife,

Defendants.

Case No. 3:11-cv-08037-DGC

**FIRST AMENDED COMPLAINT  
FOR DECLARATORY RELIEF**

Plaintiff Town of Colorado City, for its First Amended Complaint against  
defendants the United Effort Plan Trust, Bruce Wisan, as Special Fiduciary for the United  
Effort Plan Trust, Ronald Cooke and Jinjer Cooke, and Robert Black and Jane Doe Black,  
alleges the following:

**PARTIES**

1. Plaintiff Colorado City is an Arizona municipal government.
2. Defendant the United Effort Plan Trust ("the UEP Trust") is a religious and  
charitable trust formed in 1942 according to the laws of the State of Utah.
3. Defendant Bruce Wisan is a Utah resident and, at all times relevant hereto,  
was the Court-appointed Special Fiduciary of the UEP Trust. In that capacity, Bruce

1 Wisan purports to oversee and administer the Trust's assets, including much of the real  
2 property located in Colorado City, Arizona.

3 4. Defendants Ronald Cooke and Jinjer Cooke are husband and wife. Upon  
4 information and belief, they are Arizona residents. They are collectively referred to below  
5 as "the Cookes."

6 5. Upon information and belief, defendant Robert Black is an Arizona resident  
7 and married to Jane Doe Black. The true name of Jane Doe Black is unknown. If and  
8 when Colorado City learns her name, it will move to amend the case caption.

9 **JURISDICTION AND VENUE**

10 6. Colorado City seeks a declaration from this Court regarding the following  
11 two issues: (a) whether Bruce Wisan had the authority under the United States  
12 Constitution, and particularly the Establishment and Free Exercise Clauses, to place the  
13 Cookes onto the subject property; and (b) whether the Cookes or Robert Black have the  
14 right to occupy the subject property.

15 7. An actual controversy exists because the Cookes and Robert Black have  
16 asserted competing interests and claims to the subject property.

17 8. Upon information and belief, Robert Black is a member of The  
18 Fundamentalist Church of Jesus Christ of Latter-Day Saints ("FLDS"). Mr. Black claims  
19 that he has the right to occupy the subject property because the UEP Trust (prior to Mr.  
20 Wisan's involvement) granted him the authority to occupy the property.

21 9. The Cookes, who are not FLDS members, claim that they have the right to  
22 occupy the subject property because Mr. Wisan, as the Special Fiduciary of the UEP  
23 Trust, granted them the authority to occupy the property.

24 10. The Cookes currently allege, as described in detail below, that Colorado  
25 City has discriminated against them with respect to the subject property due, in part, to the  
26 their religious beliefs. Robert Black has asserted his contrary rights to the property and  
27 could raise a similar religious discrimination claim.

11. If Mr. Wisan's conduct was unconstitutional, then the Cookes may not have any right to occupy the property; rather, Robert Black may have a right. If Mr. Wisan's conduct was constitutional, then Robert Black may not have any right to occupy the property; rather, the Cookes may have a right. The Court's declaration of these issues will impact Colorado City and its rights and obligations with respect to the Cookes, Robert Black, and the subject property.

12. This Court therefore has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 2201(a).

13. Venue is proper in this District pursuant to 28 U.S.C. § 1391(a)(2).

### **GENERAL ALLEGATIONS**

#### **I. History of the UEP Trust and Land Ownership in Colorado City.**

14. In 1942, members of the FLDS established the UEP Trust pursuant to Utah law. The Trust was originally established as a charitable trust.

15. According to the tenets of their faith, FLDS members are expected to dedicate their property – personal and real – to the bishop of the Church. FLDS members seek to hold all property in common.

16. Once property has been consecrated, the bishop grants an "inheritance" or "stewardship" to each family out of the properties held in trust by the FLDS, according to each family's just wants and needs.

17. The UEP Trust was established expressly to facilitate this process and to provide a legal mechanism through which FLDS members could consecrate their property to the Church.

18. Since its inception, the UEP Trust has existed to hold and manage all real estate and improvements consecrated by FLDS adherents.

19. From its establishment in 1942 until 1998, the UEP Trust was considered a charitable, religious trust. Then, in 1998, the Trust was reformed as a result of the Utah Supreme Court's decision in *Jeffs v. Stubbs*, 970 P.2d 1234 (Utah 1998).

1           20. The *Jeffs* Court held that the UEP Trust was not a charitable trust because it  
2 specifically named identifiable beneficiaries. As a result, the Utah court reformed the  
3 UEP Trust.

4           21. After the *Jeffs* decision, the UEP Trustees executed a Restated Trust  
5 Declaration. The Trustees sought to ensure that the Trust maintained its designation as  
6 “charitable” and that it would be operated according to their faith. As such, the UEP  
7 Trustees redefined the Trust’s beneficiaries to include all FLDS members who  
8 “consecrate their lives, times, talents and resources to the building and establishment of  
9 the Kingdom of God on Earth under the direction of the President of the Church.”

10          22. The new definition of “beneficiary” in the 1998 Amended UEP Trust  
11 substantially increased the class of Trust beneficiaries.

12          23. The 1998 Amended UEP Trust document also provides that “the doctrines  
13 and laws of the Priesthood and the Church . . . are the guiding tenets by which the  
14 Trustees of the United Effort Plan Trust Shall Act.” The Restated Trust Declaration also  
15 states that the Trust will be administered “consistent with its religious purpose to provide  
16 for Church members, according to their wants and needs, insofar as their wants are just . .  
17 . .”

## 18       **II. The Trust Litigation and Unconstitutional State Control of the Trust.**

19          24. On May 26, 2005, the Utah Attorney General brought an action for breach  
20 of trust against the UEP Trustees in the Fifth Judicial District Court for the State of Utah  
21 (“the Trust Litigation”). The case is captioned as *In the Matter of the United Effort Plan*  
22 *Trust (Dated November 9, 1942, Amended April 10, 1946, and Amended and Restated on*  
23 *November 3, 1998)*, Case No. 053900848.

24          25. The Utah Attorney General brought this action as a probate matter pursuant  
25 to Utah’s Uniform Trust Code and sought “an immediate order suspending the authority  
26 and power of the current trustees pending a final decision of the Court on their removal  
27 and appointing an interim special fiduciary *for the limited purpose of preserving the assets*  
28

1 *of the trust . . . .” In the Matter of the United Effort Plan Trust*, Case No. 053900848,  
2 Utah Attorney General’s Petition at 2.

3 26. On May 27, 2005, the Court granted the Utah AG’s *ex parte* motion for  
4 entry of a temporary restraining order. Pursuant to the TRO, the Court removed the  
5 existing Trustees of the Restated Trust.

6 27. In the same order, the Court appointed Bruce Wisan to act as the UEP’s  
7 Special Fiduciary. The Order did not specifically identify the powers he would wield.

8 28. On September 2, 2005, Judge Denise Lindberg, the Utah judge hearing the  
9 Trust Litigation, entered an Order expanding the Special Fiduciary’s powers. According  
10 to this order, Mr. Wisan is vested with the authority to, among other things, “file lawsuits  
11 to recover or protect Trust property as such action is deemed reasonable, prudent, and/or  
12 necessary in the discretion of the Fiduciary” and to “manage, lease, or rent the property of  
13 the Trust as such action is deemed reasonable, prudent, and/or necessary in the discretion  
14 of the Fiduciary . . . .”

15 29. In this same Order, Judge Lindberg solicited input from the parties on  
16 methods to appoint new trustees for the UEP Trust.

17 30. Over the next several months, several individuals submitted various  
18 proposals to the Court related to appointing new trustees and reforming the Trust. Each of  
19 these proposals was submitted by persons suing the Trust, many of whom were former  
20 FLDS members.

21 31. After receiving these proposals, Judge Lindberg issued a memorandum  
22 decision on December 13, 2005, in which she sought to reform the UEP Trust pursuant to  
23 the Utah Uniform Trust Code. Though Judge Lindberg recognized that the 1998  
24 amendment document was controlling, she nevertheless held that the Constitution forbade  
25 her from reforming the Trust on the basis of religious doctrine. Consequently, she sought  
26 to apply “neutral principles of law” to reform the UEP Trust.

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1           32. More particularly, Judge Lindberg indicated that the 1998 Trust document  
2 contained both secular and non-secular portions and declared her intent in reforming the  
3 Trust to “create a clear division between the two.”

4           33. In this same order, Judge Lindberg allowed the Arizona Attorney General to  
5 intervene in the Trust Litigation, stating that the Arizona AG’s intervention and  
6 involvement, alongside the Utah AG, was appropriate because “the AGs are the  
7 community’s representatives for ensuring that the charitable purposes of the Trust are  
8 protected.”

9           34. On October 25, 2006, Judge Lindberg created the Reformed Trust, and  
10 simultaneously expanded the Special Fiduciary’s powers.

11           35. Based upon his new authority, Bruce Wisan was encouraged to continue to  
12 pursue his strategy for subdividing Trust property to convey it to beneficiaries of the Trust  
13 in a religiously-neutral way.

14           36. More importantly, Bruce Wisan became the party responsible for identifying  
15 beneficiaries of the UEP Trust, as well as determining their “just wants and needs.” The  
16 term “just wants and needs” is defined by FLDS scripture, and therefore any  
17 determination of such just wants and needs must necessarily be made according to  
18 religious principles.

19           37. As the Special Fiduciary, Bruce Wisan’s extensive authority requires him to  
20 meet the just wants and needs of Trust beneficiaries by, among other things, identifying  
21 and providing homes to UEP Trust beneficiaries. He is assisted in this work by the UEP’s  
22 Advisory Board and its Housing Subcommittee. At all times relevant to this matter, Seth  
23 Cooke, Ronald Cooke’s brother, sat on both the Advisory Board and the Housing  
24 Subcommittee.

25           38. On October 6, 2008, the FLDS filed a lawsuit in the Utah federal district  
26 court against Bruce Wisan, the Utah and Arizona AGs, and Judge Lindberg, arguing that  
27 the Utah Court’s reformation of the UEP Trust and subsequent administration of the UEP  
28 Trust via the Special Fiduciary violated their First Amendment rights (“the FLDS

1 Lawsuit”). That case is captioned as *The Fundamentalist Church of Jesus Christ of*  
2 *Latter-Day Saints v. Bruce R. Wisan, et al.*, Case No. 2:08-cv-772.

3 39. The FLDS Lawsuit claims, among other things, that the manner in which  
4 Bruce Wisan, Utah, and Arizona have administered the UEP Trust since its state-  
5 authorized takeover in 2006 is contrary to the UEP Trust’s express religious purposes and  
6 is therefore unconstitutional.

7 40. The FLDS Lawsuit notes that, according to the 1998 Trust document,  
8 continued enjoyment of UEP Trust participation and benefits is intended to be conditioned  
9 upon a beneficiary’s living in accordance with the tenets of the faith. By divorcing the  
10 UEP Trust’s operation from its religious underpinnings, the FLDS argues that the Utah  
11 Court violated the Establishment and Free Exercise Clauses of the United States  
12 Constitution.

13 41. On February 24, 2011, Judge Dee Benson of the Utah federal district court  
14 issued a Memorandum Opinion and Order granting a preliminary injunction which  
15 extends the terms of a previously entered TRO.

16 42. Judge Benson’s February 24, 2011 decision holds that Judge Lindberg’s  
17 action in reforming the Trust to require that it be administered pursuant to neutral, non-  
18 secular principles violated the Establishment Clause by inhibiting religion and by  
19 fostering excessive government entanglement with religion.

20 43. Judge Benson also held that the “state actors had no authority to act as they  
21 did,” referring to not only the reformation of the Trust, but also to the appointment of  
22 Bruce Wisan as the Special Fiduciary and to defining the scope of Bruce Wisan’s  
23 authority as requiring him to administer the Trust consistent with neutral legal principles.

24 44. Judge Benson’s decision also finds that, while the parties did not focus their  
25 arguments as heavily on the Free Exercise Clause, it was likely that, on the record as  
26 developed at the time of the decision, the FLDS plaintiffs would succeed on this claim as  
27 well.  
28

1 **III. The Special Fiduciary's Land Reassignment and Subdivision Efforts.**

2 45. Upon information and belief, at the time the Trust Litigation was initiated,  
3 the UEP Trust owned and controlled approximately 90% – 95% of all real property in  
4 Colorado City.

5 46. Prior to Bruce Wisan's appointment as Special Fiduciary, FLDS members  
6 lived on land consecrated by their ancestors. Changes in the families occupying any  
7 particular parcel within Colorado City were infrequent.

8 47. This began to change significantly after Bruce Wisan began to exercise his  
9 Court-authorized powers.

10 48. Bruce Wisan has reassigned property from those FLDS members currently  
11 occupying property to non-FLDS persons who allegedly are UEP Trust beneficiaries.

12 49. More often than not, Bruce Wisan has undertaken these reassignments  
13 without following the proper procedures. Specifically, and upon information and belief,  
14 neither the UEP Trust nor Bruce Wisan has ever filed a forcible detainer action in Arizona  
15 against an existing occupant of any residential property to extinguish the existing  
16 resident's rights, prior to reassigning the property.

17 50. This is contrary to Arizona law and has resulted in, and continues to cause,  
18 frequent and on-going civil property disputes within Colorado City between competing  
19 interested parties. Colorado City police authorities are often called to respond to these  
20 disputes, though they are essentially civil property matters.

21 51. Upon information and belief, Bruce Wisan's property reassignments are part  
22 of a greater effort to force individual property ownership onto a community comprised of  
23 almost exclusively FLDS members.

24 52. One way in which Bruce Wisan has sought to privatize land ownership in  
25 Colorado City is by subdividing the UEP Trust property into individual parcels that can be  
26 sold to individual owners.

27 53. Bruce Wisan's efforts to subdivide land in the community began almost  
28 immediately upon his appointment and were in full swing by 2007.

1           54. Bruce Wisan's efforts, including those to privatize most of Colorado City,  
2 are supported and augmented by both the Utah and Arizona AGs, both of whom have  
3 been more active in the UEP Trust Litigation than has the Special Fiduciary himself.  
4 Indeed, at times, the positions taken by the AGs' offices appear to be on behalf of Bruce  
5 Wisan in his position as Fiduciary, rather than in AG office's representative capacity on  
6 behalf of putative UEP Trust beneficiaries.

7           55. Furthermore, the Utah Court has ratified Bruce Wisan's subdivision efforts,  
8 even though they are often taken lawlessly.

9           56. As part of its efforts to subdivide and privatize real property in Colorado  
10 City, the UEP Trust has sought to have Colorado City and Hildale, Utah (its neighboring  
11 community) extend new water service to proposed subdivision lots.

12           57. The UEP Trust and Bruce Wisan have sought these new water connections  
13 despite knowing about the water shortage of 2007 and the resultant uniform policy to  
14 restrict new connections.

15           58. Further, the UEP Trust and Bruce Wisan have shown an unwillingness to  
16 bear any cost associated with the extension of infrastructure to these properties, especially  
17 as those costs relate to culinary water service. Rather, the UEP Trust, through Bruce  
18 Wisan, has advised Colorado City that it should bear the costs.

19           59. When Colorado City rejected this notion, Bruce Wisan made oblique threats  
20 about "ways to get around" the problem. Colorado City did not become aware until later  
21 that Bruce Wisan's decision to place the Cooke family on the subject property was likely  
22 part of the UEP Trust's overarching goal to privatize the land and force Colorado City to  
23 bear the cost of providing the culinary water-related infrastructure.

#### 24 **IV. The Cooke Lawsuit.**

25           60. In 2010, the Cookes filed a lawsuit in this Court, at Case No. 3:10-cv-  
26 08105-JAT, against Colorado City, the City of Hildale, Utah (sometimes collectively  
27 referred to as "the Twin Cities") and several other defendants ("the Cooke Lawsuit"). In  
28 the Cooke Lawsuit, the Cookes allege that Colorado City discriminated against them by

1 denying the Cookes a culinary water connection on the basis of the Cookes' religion and  
2 Mr. Cooke's disability.

3 61. According to the Cooke Lawsuit, Mr. Cooke was raised in the Twin Cities.  
4 He is a former member of the FLDS, but left the FLDS as a teenager.

5 62. Mr. Cooke claims that after he left the FLDS, he moved to Phoenix. While  
6 living in Phoenix, Mr. Cooke was reportedly in a very serious accident that rendered him  
7 permanently disabled.

8 63. Sometime in late 2007 or early 2008, the Cookes decided to return to  
9 Colorado City from Phoenix, Arizona.

10 64. As a former FLDS adherent, Mr. Cooke believes that he is a beneficiary of  
11 the UEP Trust. Consequently, on or about February 11, 2008, Ronald Cooke submitted a  
12 Petition for Benefits to the UEP Trust.

13 65. This Petition was approved the same day it was submitted.

14 66. In submitting the Petition for Benefits, Mr. Cooke responded to offers from  
15 the UEP Trust – made by and through Seth Cooke, who was both Ronald Cooke's brother  
16 and a member of the UEP Advisory Board – for housing. Indeed, Ronald Cooke's belief  
17 that the UEP Trust would provide him with affordable housing was his primary impetus  
18 for returning to Colorado City.

19 67. Mr. Cooke, and/or someone on his behalf, coordinated with the UEP Trust  
20 to identify a property for the Cookes to occupy. Mr. Cooke claims he was seeking  
21 "suitable, affordable housing."

22 68. According to the Cooke Lawsuit, suitable housing was housing with  
23 existing culinary water to assist in caring for Mr. Cooke's disability, as well as "reliable  
24 electricity" to run the medical device he alleges he needs to assist his breathing at night.

25 69. In spite of the fact that the UEP Trust and/or Bruce Wisan knew about Mr.  
26 Cooke's needs, and though there were other unoccupied properties in Colorado City at the  
27 time the Cookes sought housing, the UEP Trust and/or Bruce Wisan nevertheless elected  
28

1 to assign the Cookes the property at 420 East Academy, Colorado City, Arizona for  
2 residential occupancy (“the Property”).

3 70. On February 11, 2008, the same date that Mr. Cooke submitted his Petition  
4 for Benefits to the UEP Trust, Bruce Wisan issued the Cookes an Occupancy Agreement  
5 for the Property.

6 71. The Property never had an existing culinary water connection.

7 72. At all times relevant to the Cooke Lawsuit, the Twin Cities’ Utility Board  
8 had a uniformly applied, non-discriminatory policy in place providing that no new service  
9 locations would be connected to the culinary water system unless the applicant is able to  
10 adequately bring water to the system.

11 73. The Utility Board developed the policy after the Twin Cities experienced  
12 several summers during which a critically-high demand for water existed, culminating in  
13 an emergency water shortage in the summer of 2007.

14 74. Though the UEP Trust’s Advisory Board and/or Bruce Wisan were aware of  
15 the Utility Board’s policy and the Twin Cities’ concerns about water shortages, and  
16 though the UEP Trust and/or Bruce Wisan were aware of Mr. Cooke’s professed need for  
17 culinary water to meet the needs of his disability, Bruce Wisan nevertheless entered into  
18 an occupancy agreement with Ronald Cooke for the Property.

19 75. The Cookes moved onto the Property in May 2008. At that time, the  
20 “residence” on the Property consisted only of a partially-constructed slab and frame built  
21 by someone other than the Cookes. The Property did not have an existing culinary water  
22 connection.

23 76. On April 1, 2008, Seth Cooke contacted the utility department about the  
24 availability of utility service, including water, for the Property. Upon information and  
25 belief, Seth Cooke took these actions on behalf of his brother, Ronald Cooke.

26 77. At all times relevant to this Firth Amended Complaint, Seth Cooke was a  
27 member of the UEP Trust Advisory Board, as well as the UEP Trust’s Housing  
28 Subcommittee.

1           78. On April 1, 2008, Seth Cooke also met with Colorado City personnel, who  
2 explained the water connection policy to Seth Cooke and other agents for Ronald Cooke  
3 who were present at that meeting. Colorado City personnel also explained that to apply  
4 for utility service, the Cookes had to complete an application, pay applicable fees, and  
5 meet other standard requirements.

6           79. The Cookes failed to complete their application or comply with other  
7 requirements to establish service.

8           80. The Cookes never submitted an application to establish a new culinary  
9 water service location. The Cookes were therefore unsuccessful in obtaining culinary  
10 water service.

11           81. About this same time, the Cookes asked how to apply for a building permit.  
12 Colorado City building officials reviewed the necessary requirements and plan submittal  
13 checklists with the Cookes multiple times in 2008, but the Cookes never applied for a  
14 building permit.

15           82. Though the Cookes never applied for, or obtained, a building permit, they  
16 and their agents, including Seth Cooke, began construction on the Property in May 2008.

17           83. On October 24, 2008, approximately five months after moving to the  
18 Property, Mr. Cooke delivered a letter addressed to the Colorado City Utility Board and/or  
19 Colorado City to Colorado City's Town offices. The letter advises, for the first time, that  
20 Mr. Cooke is allegedly disabled and that he needs electrical service for his breathing  
21 machine at night. This letter also asks for culinary water, but does not indicate the request  
22 is made in the form of one for reasonable accommodation.

23           84. Ronald Cooke delivered a similar letter to the City of Hildale on October 24,  
24 2008.

25           85. On December 15, 2008, Hildale's Business Manager responded to Mr.  
26 Cooke and again explained that a new water connection could not be provided due to the  
27 Utility Board's policy. The Business Manager further explained that the Twin Cities'  
28 culinary water system was already overextended and that both municipalities feared that

1 the addition of any new service locations on the already overly-taxed system could lead to  
2 systemic failure, endangering the public health, safety, and welfare, as had occurred in  
3 July 2007.

4 86. On December 23, 2008, Ronald Cooke filed a Housing Discrimination  
5 Complaint with the Arizona Civil Rights Division (“the ACRD”), alleging that Colorado  
6 City, along with other governmental entities, including the City of Hildale, discriminated  
7 against him on the basis of religion and disability by denying him utilities, including a  
8 culinary water connection.

9 87. Though the ACRD should have brought the UEP Trust into the case, given  
10 that it functions as the landlord on the Property, the ACRD failed to do so.

11 88. Upon information and belief, the cost of providing a new water connection  
12 to the Cookes may be as high as \$150,000.00, since Colorado City would likely have to  
13 drill a new well to provide the additional water necessary to meet the demands of this new  
14 connection.

15 89. In December 2009, the parties and an attorney for the UEP Trust  
16 participated in a teleconference to discuss settlement of the housing discrimination  
17 complaint. The UEP Trust participated in these discussions at Colorado City’s and  
18 Hildale’s urging.

19 90. All settlement efforts were unsuccessful.

20 91. Subsequently, in June 2010, the State of Arizona filed a lawsuit against  
21 Colorado City in the Maricopa County Superior Court. The Cookes retained private  
22 counsel and filed a corresponding lawsuit, alleging federal claims, in this Court in June  
23 2010. The State has since intervened in the federal action, and the Cooke Litigation is  
24 now proceeding as a single action in this Court before Judge Teilborg.

25 **V. Robert Black and the Competing Interests in the Subject Property.**

26 92. Prior to 2007 and Bruce Wisan’s involvement, and pursuant to authority  
27 granted by the UEP Trust, Robert Black inhabited the Property. Upon information and  
28 belief, Mr. Black is an FLDS member.

1           93. In 2001, Mr. Black obtained a building permit from Colorado City to begin  
2 constructing a home on the Property. After obtaining the building permit, Mr. Black put  
3 in the slab on the Property and framed the house.

4           94. Given the unique form of land ownership common to Colorado City, most  
5 properties are not covered by residential mortgages, and obtaining construction loans is all  
6 but impossible. Consequently, residential construction occurs over an extended period of  
7 time, as residents build only as the resources are available to do so. Oftentimes, this  
8 means that a home can take several years to build from the start of construction to move-  
9 in.

10          95. Upon information and belief, Mr. Black ceased construction work on the  
11 Property. The precise date upon which Mr. Black ceased his work at the Property is  
12 unknown.

13          96. The UEP Trust and Bruce Wisan subsequently declared that Mr. Black had  
14 abandoned the Property, yet neither the UEP Trust nor Bruce Wisan took any action to  
15 extinguish Mr. Black's right to occupy the property, as required under Arizona law.

16          97. Instead, the UEP Trust and Bruce Wisan went forward and assigned the  
17 Cookes to the Property, even though they had not first extinguished Mr. Black's rights.  
18 Upon information and belief, this "reassignment" of the Property from an FLDS member  
19 to a non-FLDS UEP Trust beneficiary was intended to serve the UEP Trust's overarching  
20 efforts to move Colorado City towards private land ownership via the creation and sale of  
21 subdivided property.

22          98. Upon information and belief, Robert Black believes that he is the rightful  
23 occupant of the Property.

24          99. In fact, in September 2009, Robert Black showed up to a Utility Board  
25 meeting and advised the Board that he intended to continue to assert his rights to the  
26 Property.

27          100. Additionally, on September 14, 2009, Robert Black attended a Colorado  
28 City Town Council meeting. At this meeting, Mr. Black told the Council that he believed

1 he was entitled to inhabit the Property. Mr. Black's assertion of an on-going right to  
2 occupy the Property caused the City Council great concern, as the Council was being  
3 asked, in the context of the Cooke Litigation, to provide a new culinary water connection  
4 to the Property for the Cookes.

5 101. The Council worried that if the Cookes were not legally entitled to occupy  
6 the Property, they may not achieve a final settlement of the Cooke Litigation even if they  
7 agreed to establish a new culinary water service location at the Property.

8 102. In October 2009, and as further evidence of Mr. Black's intent to assert a  
9 right to occupy the Property, Mr. Black inquired about obtaining – and ultimately applied  
10 for – another building permit for the Property.

11 103. Due to the Cookes' and Robert Black's competing claims and interests in  
12 the Property, Colorado City seeks declaratory relief regarding whether Bruce Wisan's  
13 conduct, as the Special Fiduciary of the UEP Trust, violated the United States  
14 Constitution. Colorado City also seeks declaratory relief regarding whether the Cookes or  
15 Mr. Black have the right to occupy the Property.

16 **COUNT ONE**  
17 **(Declaratory Relief)**

18 104. Colorado City incorporates the above paragraphs as though fully set forth  
19 herein.

20 105. In his February 24, 2011 Order, Judge Benson concluded that any and all  
21 actions Bruce Wisan has taken following Judge Lindberg's reformation of the UEP Trust  
22 on December 13, 2005 were unconstitutional because they violated the First Amendment.

23 106. Bruce Wisan's conduct impacted Colorado City directly. Yet, Judge  
24 Benson's Order is not binding in Arizona. Having an Order that applies to only Hildale  
25 City, Utah and not to Colorado City, Arizona is inherently problematic, as the two Twin  
26 Cities are for all practical purposes one in the same for the citizens who reside in that area.

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116. Colorado City's water shortage policy was enacted to uniformly ensure that sufficient culinary water is available to serve existing customers. Providing new water connections where, as here, the property occupiers have not met the existing policy for establishing the new connection jeopardizes the availability of water in Colorado City for daily and emergency use.

WHEREFORE, the Town of Colorado City requests that this Court provide the following relief:

- (a) A declaration regarding whether Bruce Wisan's conduct was constitutional;
- (b) A declaration regarding whether any and all actions that Bruce Wisan took with respect to the Property and/or the Cookes' occupancy of the Property after December 13, 2005 are unconstitutional and therefore void;
- (c) A declaration regarding whether Ronald Cooke's Petition for Benefits dated February 11, 2008 is void and unenforceable because it was approved by Bruce Wisan, who lacked any legitimate authority to review and/or grant said Petition.
- (d) A declaration regarding whether Ronald Cooke's February 11, 2008 Occupancy Agreement for the Property, and any other subsequent Occupancy Agreement for that Property approved by Bruce Wisan, is void and unenforceable.
- (e) A declaration regarding whether, at all times relevant to the Cooke Litigation, the Cookes had any legal authority to occupy the Property.
- (f) A declaration regarding whether the Cookes or Robert Black had the rightful legal authority to occupy the Property between May 2008 and the present; and
- (g) For such other and further relief as this Court deems just and proper.

DATED this \_\_\_\_ day of July 2011.

GRAIF BARRETT & MATURA, P.C.

By \_\_\_\_\_  
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**CERTIFICATE OF SERVICE**

I hereby certify that on \_\_\_\_\_, 2011, I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF system for filing and transmittal of Notice of Electronic filing to the following CM/ECF registrants:

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